

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of)

SAL SPECTRUM, LLC)

File Number 0007122225

Application to Participate in Auction 1002)

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To: The Wireless Telecommunications Bureau

Federal Communications Commission
Bureau / Office

PETITION FOR WAIVER

Pursuant to Section 1.925(b) of the rules of the Federal Communications Commission ("Commission" or "FCC"),¹ Atlantic Tele-Network, Inc. ("ATN") and its wholly-owned subsidiary SAL Spectrum, LLC ("SAL") (together "Petitioners") request, to the extent necessary, a waiver of Section 1.2110(f)(4) of the FCC's rules² to enable SAL to assert a claim for the rural service provider bidding credit in its above-captioned application to participate in Auction 1002, the upcoming forward auction component of the broadcast spectrum incentive auction.

I. Introduction and Background

ATN is a holding company that, through operating subsidiaries, (i) provides wholesale and retail wireless and wireline telecommunications services in rural North America, Bermuda, Guyana, and the Caribbean; (ii) owns and operates terrestrial and submarine fiber optic transport systems in the United States and the Caribbean, respectively; and (iii) owns and operates commercial distributed generation solar power systems in the United States. In the United

¹ 47 C.F.R. § 1.925(b).

² 47 C.F.R. § 1.2110(f)(4).

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States, ATN has long focused on the provision of wireless services in rural areas that go unserved by other providers. Its largest wholesale networks are located principally in the western United States, where it predominantly serves areas with a population density of fewer than 10 persons per square mile. ATN also offers wireless voice and data services to retail customers in certain rural markets also covered by our wholesale networks, as well as competitive integrated voice and broadband data communications and wholesale transport services in Vermont, New York and New Hampshire.

Outside of the United States, ATN provides wireless voice and data services to underserved markets, the largest of which is Guyana. The per capita income in the international markets ATN serves is typically far less than that of the United States and, partially as a result, telecommunications infrastructure in these areas is much more limited.³ And while some of the Caribbean islands in which ATN offers service have higher per capita incomes, the costs associated with serving these insular areas and their vulnerability to environmental forces make providing telecommunications services especially challenging there.

Each of ATN's subsidiaries, including its domestic operations, operates largely autonomously with very modest coordination or centralization of operations. Each has a separate board, management team, operational teams and profit and loss responsibility. More significantly, unlike most larger telecommunications companies that have robust centralized corporate resources that coordinate management and technology roadmaps, the decentralized ATN subsidiaries make decisions based on the best interest of their particular market rather than being beholden an ATN standard. The technology and vendors used in the various markets are

³ ATN's largest foreign-affiliate operation is in Guyana, the second-poorest nation in the Caribbean region, behind every other country except Haiti. According to the United Nations, Guyana has per capita income of about \$3,775 per year. See <http://data.un.org/CountryProfile.aspx?crName=GUYANA#Economic> (visited May 2, 2016).

often quite different. For example, depending on the market in question, ATN subsidiaries operate CDMA, GSM, HSPA+ and UMTS technologies (among others) using a variety of vendors. ATN's five wireless subsidiaries operate multiple network cores provided by several different vendors. Those same five subsidiaries are supported by four different billing vendors.

There is no factual dispute as to the size of ATN's operations. In the U.S., ATN subsidiaries serve slightly more than 62,000 wireline, wireless, broadband, and cable subscribers, predominantly in areas with population density of fewer than 100 persons per square mile. Outside the U.S., ATN's business model is to provide service primarily in less-developed and underserved markets in the Caribbean and South America. ATN's foreign subsidiaries serve more than 250,000 wireline, wireless, broadband, and cable subscribers, but even taking into account all of the subscribers served by ATN and its operating subsidiaries worldwide, ATN's total worldwide subscriber base is fewer than 500,000, making it a small player in comparison to other telecommunications companies.⁴

On February 4, 2016, SAL filed the above-captioned FCC Form 175 application to participate in Auction 1002.⁵ Given the predominantly rural nature of ATN's operations in the United States and the fact that those operations serve far fewer than 250,000 subscribers, SAL sought the rural service provider bidding credit and provided in its application information demonstrating its eligibility for that credit, including a request for confidential treatment.⁶ Subsequently, on April 5, 2016, staff of the Wireless Telecommunications Bureau ("Bureau")

⁴ By way of example, the 41st largest telecommunications company in the world has annual revenues of \$4.241 billion. See https://en.wikipedia.org/wiki/List_of_telephone_operating_companies. ATN's worldwide annual revenues are less than 8 percent of that figure.

⁵ See File No. 000712225.

⁶ SAL requested confidential treatment of its subscriber information pursuant to Section 0.459 of the Commission's rules, 47 C.F.R. § 0.459.

indicated to SAL that it would need to submit additional information regarding subscribers served outside the U.S. by SAL's foreign affiliates, which SAL submitted on April 6, 2016 along with an amended request for confidential treatment. Bureau staff subsequently denied SAL's request for confidential treatment,⁷ and Petitioners are filing with the Commission concurrently with this Petition an Application for Review of that denial.

When it established the rural service provider bidding credit, the FCC stated that "rural service providers will be able to demonstrate eligibility for a 15 percent bidding credit if they serve fewer than 250,000 subscribers and serve predominantly rural areas."⁸ The plain meaning and context of this language suggests that only domestic subscribers served by rural service providers are relevant to eligibility determinations; however, other language in the *Part 1 Reform Order* creates some ambiguity as to the need to include foreign as well as domestic subscriber counts. The Commission need not decide this broader question at this time, because even if Section 1.2110(f)(4) does require consideration of the number of foreign subscribers, SAL's application meets the FCC's well-established standard for granting a waiver of that requirement.

Specifically, failure to grant this requested waiver would frustrate the underlying purpose of Section 1.2110(f)(4) – which is to help rural service providers compete for licenses and to encourage the provision of competitive offerings to consumers in rural areas – and would be inequitable in light of the unique circumstances presented by SAL. Granting the requested waiver would promote competition in spectrum auctions and enhance the opportunity for consumers in rural areas to have access to competitive and innovative service offerings.

⁷ Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, FCC, to Rohan Ranaraja, SAL Spectrum, LLC, DA 16-426 (rel. Apr. 20, 2016) ("Letter Ruling").

⁸ See *Report and Order; Order on Reconsideration of the First Report and Order; Third Order on Reconsideration of the Second Report and Order; Third Report and Order*, 30 FCC Rcd 7493, 7533 ¶ 94 (2015) ("*Part 1 Reform Order*").

The incentive auction has already begun and the start of active bidding in Auction 1002 is fast-approaching, so the Petitioners respectfully ask that the Bureau consider this waiver request on an expedited basis (including an expedited comment period) before the start of the clock rounds of the forward auction.⁹ Prompt and favorable consideration will promote the public interest by enabling SAL, as a rural service provider, to provide more competitive and innovative services to consumers in rural America and to more robustly compete in Auction 1002 with the larger carriers and with other rural service providers who will qualify for the bidding credit but whose domestic subscriber bases are larger than ATN's.

II. The Bureau Should Grant SAL a Waiver, To the Extent Necessary, Of Any Requirement That Foreign Subscribers Be Considered in Determining Its Qualifications For the Bidding Credit.

The Bureau may grant a waiver of its requirements upon a demonstration that: (i) the underlying purpose of the rule at issue would not be served or would be frustrated by its application, and that the waiver would be in the public interest; or (ii) in view of the unique circumstances, application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or that no reasonable alternative exists.¹⁰ As demonstrated below, ATN clearly meets either of these alternative waiver standards and should be granted a waiver of any requirement to include foreign subscribers as part of the rural bidding credit eligibility determination, to the extent necessary.

⁹ In considering other auction-related waiver requests, the Bureau has crafted a 10-day comment period, with a 5-day reply period. See, e.g., *Wireless Telecommunications Bureau Seeks Comment on SBC Communications Inc.'s Request for Waiver of the Eligibility Requirements for Participation in the Upcoming PCS C and F Block Auction*, Public Notice, 15 FCC Rcd 1953 (WTB, 2000); *Wireless Telecommunications Bureau Seeks Comment on Nextel Communications, Inc.'s Petition Regarding PCS C and F Block Spectrum; Extension of Filing Deadline for Comments to SBC Communications Inc.'s Request for Waiver*, Public Notice, 15 FCC Rcd 2104 (WTB, 2000). Petitioners suggest that a similar timetable be employed here.

¹⁰ 47 C.F.R. § 1.925(b)(3). Waivers also may be granted for good cause. See *id.* § 1.3.

A. The Purpose of the Bidding Credit Would Be Frustrated Without the Requested Waiver, the Grant of Which Would Serve the Public Interest.

The underlying purpose of the rural service provider bidding credit would be frustrated if the foreign subscribers of SAL's foreign affiliates were required to be considered in determining its eligibility for the rural service provider bidding credit. The rule creates a two-part eligibility test – to be eligible, an auction applicant must “provide commercial communications services to a customer base of fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers *and* serve primarily rural areas.”¹¹ It is incontrovertible that ATN focuses its U.S. operations predominantly on the deployment of service to counties with a population density of fewer than 100 persons per square mile and that the number of total subscribers served by these operations is significantly fewer than 250,000. Thus, SAL is precisely the type of auction applicant the Commission intended to benefit from the rural service provider bidding credit.

This bidding credit was designed “to help [rural service providers] compete for spectrum licenses more effectively and to provide consumers in rural areas with competitive offerings.”¹² In establishing it, the Commission noted that “[e]nsuring that multiple rural service providers have the ability to compete effectively to acquire spectrum licenses is crucial to promoting consumer choice and competition throughout rural America, as well as to fostering innovation in the marketplace.”¹³ The Commission intended that the new rule “speed[] the availability of

¹¹ *Id.* at 7530 ¶ 88 (emphasis added). In the rule that codifies the rural service provider bidding credit, the second prong of the test is service to “predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile.” 47 C.F.R. § 1.2110(f)(4). The Commission declined to adopt a definition for the term “predominantly” in this context, instead putting each prospective applicant on notice that, “to be eligible for a rural service provider bidding credit, the primary focus of its business activity must be the provision of services to rural areas.” *Part 1 Reform Order*, 30 FCC Rcd at 7533 ¶ 94 n.312.

¹² *Part 1 Reform Order*, 30 FCC Rcd at 7494 ¶ 1.

¹³ *Id.* at 7495 ¶ 4.

wireless voice and broadband services in rural areas”¹⁴ by making the bidding credit available only to providers that are already providing service to rural consumers in the United States.¹⁵ The rural deployment goal of this bidding credit is especially critical in the context of Auction 1002 because spectrum below 1 GHz “has distinct propagation advantages for network deployment over long distances and is therefore particularly well-suited for deployment in rural areas.”¹⁶ Specifically, the favorable propagation characteristics of the 600 MHz Band spectrum enables coverage of large geographic areas with less infrastructure, making it uniquely suited to the low population densities found in rural America. In recognizing “the consumer benefits that stem from multiple providers being able to utilize the unique and highly valuable characteristics of low-band spectrum,” the Commission stated that “[i]t is therefore our goal to encourage significant competition in the Incentive Auction for licenses in rural areas.”¹⁷

As noted in the *Part 1 Reform Order*, the rural service provider bidding credit “will . . . support our statutory objectives to disseminate licenses among a wide variety of applicants, ensure that rural telephone companies have an opportunity to participate in the provision of

¹⁴ *Id.*

¹⁵ The *Part 1 Reform Order* states that the eligibility threshold of 250,000 subscribers would “encompass carriers that provide a variety of services to rural areas, while excluding larger entities that do not have the same demonstrated need for a bidding credit,” and that this benchmark “will best ensure that only smaller rural service providers that serve predominantly rural areas receive the bidding credit.” *Part 1 Reform Order*, 30 FCC Rcd at 7533 ¶ 94 and 7534-7535 ¶ 98 (emphasis added). It seems clear, therefore, that both prongs of the eligibility test were intended to involve an examination only of an applicant’s domestic operations. For purposes of this waiver request, however, the Commission need not reach this question because, in SAL’s case in Auction 1002, the standard for a waiver is met even if foreign subscribers were deemed to be relevant to the 250,000 subscriber threshold. Further, the rural service provider bidding credit is unlike the small business bidding credit, which is available to any applicant meeting certain revenue benchmarks, regardless of whether it already exists as a small business or is newly-created. In addition, the Commission did not state in the *Part 1 Reform Order* that non-U.S. subscribers of an applicant’s affiliates should be included in the analysis of an applicant’s eligibility for the rural service provider bidding credit; nor did it equate revenues (which are fungible and therefore relevant in the small business bidding credit context wherever earned) with subscribers (which are unique to a particular geography and are thus relevant in the rural service provider bidding credit context only if they receive service in the U.S.).

¹⁶ *Part 1 Reform Order*, 30 FCC Rcd at 7533 ¶ 95.

¹⁷ *Id.* at 7537 ¶ 106.

spectrum-based services, and promote the availability of innovative services to rural America.”¹⁸

The bidding credit thus was adopted with the specific intention to enable current rural service providers who do not qualify for a small business bidding credit to compete more effectively and equitably against larger carriers, and to enhance the prospects for increased competition for mobile telephony and broadband services in rural areas where too few competitive options currently exist.¹⁹ This fits perfectly with the demonstrated commitment that ATN has shown to serving rural and underserved areas, discussed with greater specificity in Section II.B below.

The purpose of the rule – to “help [rural service providers] compete for spectrum licenses more effectively and to provide consumers in rural areas with competitive offerings” – would be frustrated in SAL’s case if the Commission were to attribute the non-U.S. subscribers to SAL for bidding credit purposes. Given its very limited domestic operations and its relatively small overall size compared with other bidders, ATN’s ability to compete effectively for licenses would be significantly impeded if it is unable to claim eligibility for the bidding credit. Many of the spectrum blocks being offered are in PEAs that include both urban and rural areas, requiring providers like ATN, whose focus is on deploying service to the rural areas, to compete for licenses with large national carriers that are focused on the urban areas.²⁰ The rural service

¹⁸ *Id.* at 7534 ¶ 96, citing 47 U.S.C. § 309(j)(3)(A), (B), and (D)..

¹⁹ The Commission observed that small carriers have had difficulty competing against larger carriers in rural areas and that many of those same rural service providers are not eligible for small business bidding credits, and noted the assertion of rural service providers that “they did not bid more aggressively in [Auction 97] because many were unable to qualify as DEs under our rules and thus competed against DEs and well-funded national carriers without the benefit of bidding credits.” *Part 1 Reform Order*, 30 FCC Rcd at 7531-7532 ¶¶ 91-92. In its most recent report on the state of competition in the market for mobile services, the Commission showed that while 95.5% of the population living in non-rural areas in the U.S. has access to four or more service providers, only 62.6% of those living in rural areas do. The gap in LTE service is even more severe, with 91.9% of non-rural residents having access to four or more LTE service providers, compared with only 40.7% of rural residents. See *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Eighteenth Report, 30 FCC Rcd 14515, 14543-14544 ¶¶ 40-41, Charts II.A.4 and III.A.5 (2015).

²⁰ With only two of the four nationwide carriers controlling the vast majority of the low-band spectrum being put up for bid in the incentive auction, the Commission considered it especially important to facilitate competition in the

provider bidding credit helps rural providers compete for these licenses. In smaller and more rural PEAs, the Commission also should ensure a level playing field so that ATN can compete for licenses effectively with other predominantly rural service providers that have far more domestic subscribers than ATN but are eligible for the rural service provider bidding credit.

The underlying goals of the rural service provider bidding credit will be better served if SAL, whose affiliates serve predominantly rural areas and has far fewer than 250,000 combined domestic wireless, wireline, broadband, and cable subscribers, has the ability to assert eligibility for the bidding credit. A waiver limited in this case to Auction 1002 will better promote the provision of more competitive services to consumers in rural America. Grant of the requested waiver will enable a provider of predominantly rural services to fully participate in the auction, which in turn will promote competition both for licenses in the auction spectrum and in the deployment of wireless services in rural America. Favorable prompt action on this request therefore will serve the public interest.

B. The Unique Circumstances In This Case Makes Attribution to SAL in Auction 1002 of the Foreign Subscribers of Its Foreign Affiliates Inequitable and Contrary to the Public Interest.

For nearly two decades, ATN and its domestic affiliates have provided services in rural America, including in some very remote areas. ATN has extended services to over 100 areas of the west that otherwise would have no access to any wireless telecommunications, sometimes with life-saving effect.²¹ In addition, as a result of Auction 73 (700 MHz), SAL and ATN's 49%-owned affiliate NTUA Wireless, LLC ("NTUA Wireless") launched the first commercial

auction from rural service providers, warning that "the continued concentration of low-band spectrum will have a pronounced effect on competition and consumers in rural areas." *Part I Reform Order*, 30 FCC Rcd at 7533 ¶ 95.

²¹ Evidence of some of the instances in which ATN service has made a life-or-death difference is included in Exhibit 1 hereto.

LTE services to the Navajo Nation Reservation in both Arizona and New Mexico, utilizing the tribal lands bidding credit.²² Similarly, ATN subsidiary Commnet Wireless is providing wireless services in previously unserved areas in Pueblo County, Colorado, and Esmeralda, Eureka, Humboldt, Lander, Nye and Churchill Counties, Nevada using funding obtained in Auction 901 (Mobility Fund Phase I). Commnet Wireless also is building out service to the Picuris Pueblo Reservation in New Mexico and the Northern Cheyenne Reservation in Montana. NTUA Wireless also is building out a wireless network in the Navajo Tribal area as a sub-grantee of a grant made to NTUA under NTIA's Broadband Technology Opportunities Program ("BTOP"). NTUA Wireless used that award to launch a retail wireless network to serve the Navajo Nation. ATN subsidiaries ION and Sovernet also have successfully built out thousands of miles of new fiber connecting anchor institutions and businesses in sparsely populated areas of upstate New York and Vermont under BTOP. And Commnet Wireless also operates wireless networks in cooperation with the relevant tribally-owned telephone company providing service on the Mescalero Apache, San Carlos Apache, and Tohono O'odham Indian Reservations. Each of the above examples demonstrates the unique commitment that ATN and its affiliates bring to serving underserved communities, including historically underserved Tribal lands.²³

During the course of successfully competing for federal grants or obtaining tribal bidding credits to facilitate these rural build out efforts, the fact that ATN also has telecommunications operations providing service in other countries through foreign subsidiaries was never considered as part of the eligibility determination. It would be inequitable, unduly burdensome, and

²² NTUA Wireless is owned 51% by the Navajo Tribal Utility Authority ("NTUA"), an enterprise of the Navajo Nation government.

²³ In many cases, ATN has invested in the deployment of service in these rural areas without any federal funding or subsidy.

contrary to the public interest for SAL to be denied the ability to claim eligibility for the bidding credit intended in Auction 1002 to promote the competitive provision of services in rural areas. Denying SAL access to the rural service provider bidding credit in Auction 1002 also would prejudice SAL when competing with other rural service providers in the auction, and would frustrate the underlying public interest goal of encouraging greater deployment of wireless services in rural areas.

Moreover, the nature of the interests held by SAL's foreign affiliates here do not undermine the goals of the rural service provider bidding credit program because those holdings are relatively small – and in less developed markets – and thus are unlikely to cause any risk to competition in the United States. Altogether, ATN, SAL and their affiliates serve fewer than 500,000 subscribers, so the grant of the requested waiver here does not set unwanted precedent that could be exploited by much larger foreign carriers. By far the largest market served by an ATN affiliate is Guyana, a nation with a population of approximately 800,000 – smaller than that of Jacksonville, Florida.²⁴ There is no risk that Petitioners will be able to leverage the power of their Guyanese operations to somehow distort the rural U.S. wireless marketplace.

III. Conclusion

The Commission believes that “providing eligible rural service providers with a meaningful opportunity to compete for spectrum licenses will be particularly important in the upcoming Incentive Auction,”²⁵ and it has articulated a goal of “encourag[ing] significant competition in the Incentive Auction for licenses in rural areas.”²⁶ In light of (1) the FCC’s

²⁴ See <http://worldpopulationreview.com/countries/guyana-population/> and https://en.wikipedia.org/wiki/List_of_United_States_cities_by_population

²⁵ *Part 1 Reform Order*, 30 FCC Rcd at 7530 ¶ 88.

²⁶ *Id.* at 7537 ¶ 106.

purpose in adopting the rural service provider bidding credit and its statements regarding the importance of this bidding credit's application in Auction 1002 given the failure of the small business bidding credit to help many carriers serving rural areas, and (2) Petitioners unique record as a rural service provider in the U.S. and limited international holdings, it is clear that, at least in Auction 1002, attributing to SAL the non-U.S. subscribers of its foreign affiliates would frustrate the very purpose for which the rural service provider bidding credit was adopted, and also would be inequitable to Petitioners.

Based on the showing made above, Petitioners respectfully request that, to the extent necessary, a waiver of Section 1.2110(f)(4) be granted along the lines suggested herein.²⁷ The forward auction component of the Incentive Auction is fast-approaching, so Petitioners also

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²⁷ Petitioners also request that, after grant of this petition, favorable action be taken on the application for review filed regarding the Bureau denial of confidentiality.

request that the Commission act on this request before the active bidding rounds of Auction 1002 begin.

Respectfully submitted,

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May 3, 2016

EXHIBIT 1

From: Ogden, Justin L Maj AFAUX/CAP [<mailto:justin.ogden@forensics.cap.gov>]

Sent: Tuesday, December 10, 2013 3:12 PM

To: Julie Hall; Shane Conners; Leonard Westlake; Mark Hansen

Cc: Lou Tomasetti; Danielle Becker

Subject: Missing family of 6 found alive!

All,

Within the last 30 minutes or so the family missing in Nevada has been located. Everyone is alive. I don't know many details at this point. I'll keep you posted and provide follow-up.

At this point, the Commnet cell data on the 201am call had a big influence on changing the focus of the search - and that lead to finding them.

More to follow! Please distribute the good news. THanks for all the support!!

Justin

Justin Ogden, Maj CAP
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CAP CELL PHONE FORENSICS LEAD SEARCHERS TO 6 FOUND ALIVE IN NEV.

December 10, 2013



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NATIONAL HEADQUARTERS -- Two adults and four children missing nearly two days in bitter winter conditions in rural northwestern Nevada's rugged, mountainous Seven Troughs Range were found alive and well Tuesday afternoon by Civil Air Patrol in coordination with Pershing County Sheriff's Office, Fallon Naval Air Station, Washoe County Regional Aviation Enforcement Unit, Nevada National Guard Lakota helicopters and the state Division of Emergency Management.

Nevada Wing Commander Col. Tim Hahn said Maj. Justin Ogden and Col. Brian Ready, CAP's cell phone forensics experts, played a critical role in helping rescuers narrow the search area.

"The cell phone forensics team pinpointed where they could not possibly be and their efforts were very time-consuming. This morning they provided a key clue that redirected the search and led to the rescue."

A searcher on the ground spotted the missing family's silver 2005 Jeep Grand Cherokee with binoculars and called the sighting into the command post, leading a CAP plane and ground searchers to the area, Hahn said. A ground team then retrieved the six — a 34-year-old man, a 25-year-old woman and four children ages 10, 4, 4 and 3.

The couple and the children had never returned after driving into the Seven Troughs area about noon Sunday to play in the snow. Overnight temperatures fell as low as 20 below zero.

For its role in the coordinated search, Hahn said he has been told the Air Force Rescue Coordination Center will award the Nevada Wing with six saves.

The CAP members' role in the search began Monday with the AFRCC's authorization at the request of the Pershing County Sheriff's Office. The first day, Hahn said, two Nevada Wing planes and 14 CAP members participated, contributing 80 man-hours and "constant coverage ... of a relatively small search area."

Two more CAP planes joined the mission Tuesday, when six CAP planes participated in the search.

Ogden was quick to credit Commnet Wireless — a rural cellular provider covering remote areas where cell sites are often not easy to justify based on low population and little traffic — as a major contributor to the forensics team's success.

After he asked the company's CEO, Lou Tomasetti, for additional assistance Tuesday morning, "The Commnet network team reacted quickly and provided us with great support directly from their engineers and technicians," Ogden said.

"Sometimes it's difficult for us to work with the local carriers, just because it's tough to find the right contacts. Fortunately, we worked with Commnet in the past and that helped open the door to great support and direct access to the data," he said. "Their contribution was instrumental in allowing us to narrow the search area."

Speaking after the rescue, Hahn said, "I cannot tell you what it is like to be the commander of this wing and to work with the people throughout CAP.

"To be part of bringing them home safe is an honor to be relished."

Civil Air Patrol's vital role in the Nevada rescue is revealed to the more than 5 million viewers of "Good Morning America" in this report from David Wright of ABC News. Maj. Justin Ogden can be heard discussing cell phone forensics and its role in the rescue in interviews with [CNN Anderson Cooper 360](#) and [WTAJ-TV](#), the CBS affiliate in Altoona, Pa., near where he grew up and joined CAP as a cadet 20½ years ago. In addition, articles published in the [Reno \(Nev.\) Gazette-Journal](#) and on the Aircraft Owners and Pilots Association [AOPA website](#) take a more in-depth look at CAP's cell phone forensics team.

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Thursday, July 22, 2010

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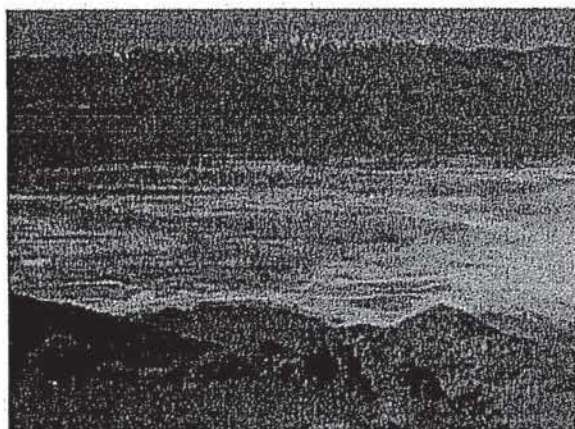
EASTERN SIERRA NEWS

New Cell Tower Helps Save Three Lives in Death Valley

Written by Tom Woods
Wednesday, 21 July 2010 15:14



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A new cell tower installed at Furnace Creek may have helped save lives in two separate incidents.

Brent Pennington, the Chief Ranger for Death Valley National Park reports that two French Nationals, a 27-year-old male and a 21-year-old Female, were rescued from the extreme heat on Monday after making a phone call that may not have connected before this cell tower was installed in recent months.

Heat related deaths are all too common in Death Valley during the summer months. On Monday morning Rangers responded to a 911 call from the two stricken hikers who didn't know where they were, but thought they were near Dantes's View. The temperature was about 117 degrees, and the two hikers had no water. Pennington reports that their vehicle was found at the Zabriskie Point parking lot. With Rangers searching on foot, a Navy helicopter out of China Lake spotted the two and hoisted them to safety.

Pennington says that there was "potential for a very dire situation," and added that before the cell tower was installed at Furnace Creek, the two may not have been recovered until it was too late. The cell coverage is not widespread in Death Valley, he says, but in this case it worked.

In another incident on Monday the 13th, a young man from Fredericksburg, Virginia decided to hike from Badwater to the Mahogany Flat Campground high in the Panamint Mountains. The man left at 5:00 in the morning and planned to meet his girlfriend at the campground at 2:00 pm. The girlfriend called the authorities when the man didn't show up by 4:00 pm.

At around 6:00 pm, Pennington says that the missing man used a cell phone to place a 911 call. After hiking all day in temperatures in the low 120's, the man had crossed the eight mile wide valley and made to the foot of the Panamint Range where he sat down by a spring to rehydrate. The man had been carrying perhaps a gallon of water, but by the time he got to the spring, he was so dehydrated and nauseas that he couldn't keep water down. Pennington estimates that the man had about a half an hour to live when rangers reached him.

The cell phone call made the difference. Pennington says that rangers have seen six people die over the years from trying this exact hike.

The extreme temperatures of Death Valley in the summer lead park staff to recommend that people not hike in the lower elevations and if they do, to stay in sight of their cars.

In these two cases a recently installed cell tower allowed rescuers to arrive in the nick of time. Fortunately no one died, but as Chief Ranger Pennington said, it was, "not for lack of trying."

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Elizabeth A. Denman, MD
9901 Harney PKWY S
Omaha, NE 68114

May, 26, 2010

Mr. Louis Tomasetti
President and CEO
Commnet Wireless, LLC
400 Northridge Road STE 325
Atlanta, GA 30350

Dear Mr. Tomasetti,

I would like to express my gratitude and let you know what wonderful people you have in your employ at Commnet. Without want or need for recognition, they were instrumental in helping to find a member of my family, Jeremy Griess. Jeremy had been missing since April 11, 2010. Unfortunately, on May 16, 2010, we found him. He had taken his own life. He lived in Denver and was found near Florissant, Colorado.

We were able to track him to this location utilizing cell phone technology. His carrier was AT&T and using their internal codes for cell towers we were able to follow him as he made this last journey. He hit the towers of four companies: AT&T, Verizon, Cellular One of NE Arizona and Commnet. AT&T and Commnet have been tremendously helpful. We were not able, despite multiple attempts with the help of the sheriff, to get ANY information from the other two. We had family members, friends, strangers, four different county sheriff departments, the National Forest Service, the Colorado State Parks Department, organized county search and rescue teams, the United States Air Force—including Captain Justin Ogden an USAF cell phone forensic expert, the use of USAF aircraft, local helicopters and countless media sources to help us search over weeks of time.

No one, and I repeat, no one, helped us to locate him as much as the good people of Commnet. Without hesitation, Angie Flom put together a team of engineers located in Castle Rock, Colorado, including Pat Malone, Ryan Levine, Chris Todd, Larry Post, Russ Nixon, Mark Hansen and Petr

Valkoun. I am sending this letter to their boss Mr. Ken Borner, in Castle Rock, Colorado, as well. They pulled and analyzed the data that with the help of FBI software utilized by Captain Ogden enabled us to construct a topographical map so that we could perform an organized search. Captain Ogden said he had never been given a task in which he was provided so much information. The majority of this information came from Commnet. The team led by Angie provided us with one quadrant of a cell phone tower where it appeared Jeremy had been stationary since April 11 until April 14 at which time we presume his battery died. Thus we had a location in which to focus our efforts. Not only did we have a location, they also gave us a cell reception map that enabled us to narrow our search even further in a densely wooded area. They stayed up late and worked long hours for no monetary gain out of the kindness of their hearts. Angie called me on a Sunday while she was out of town with her mother to see how the search was going and to pull further information to help with the search. They checked the website we established for updates and kept in contact by phone and email showing genuine concern.

I would ask that you please recognize Angie and her team for all of their efforts. Our family has suffered a terrible, irreplaceable loss. In the end, it was Mother Nature that kept us from getting to him sooner. We simply had to wait for the snow to melt. A kind man found him on his private property, well hidden in an arbor of trees resting peacefully looking directly at Pike's Peak—right where the map said he would be.

I have learned much from this tragic event. One important lesson has been that by providing this information in a time sensitive, appropriate, case-by-case manner cell phone companies can save lives. Sadly, this was not nor would it have been the case for Jeremy. I place great faith in companies like Commnet. May God bless you and your families, both personal and at Commnet. There are no words to express what your company has done for our family.

Thank you,



Elizabeth A. Denman, MD